



NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES
MEDICAID TO SCHOOLS POLICY GUIDANCE

Reference Number	SFY 2020- 01
Authorized by	Henry Lipman Medicaid Director
Division/Office/Bureau	Division of Medicaid Services
Issue Date	September 2019
Effective Date	Immediately
Subject	Policy guidance
Description	Medicaid to Schools Emergency Rule 2019

OVERVIEW

On August 27, 2019, the Department of Health and Human Services (the Department) adopted an emergency rule for the Medicaid to Schools (MTS) benefit that continues coverage for services to Medicaid eligible students beyond those with Individualized Education Plans (IEP) and clarifies when schools can seek Medicaid reimbursement. This guidance is being issued to provide information regarding the changes to MTS, and provides background information and clarification to explain these changes. The emergency rule will be effective until 2/24/2020, and the Department plans to propose regular rulemaking prior to the emergency rule's expiration. The emergency rule can be found at <https://www.dhhs.nh.gov/oos/aru/documents/erhem1301noticeandrule.pdf>

BACKGROUND

The Department has expanded the MTS benefit to include reimbursement for coverable Medicaid services delivered by qualified treatment providers to any Medicaid eligible student with a written care plan beyond those students with an IEP. Reimbursement for coverable Medicaid services provided pursuant to an IEP will continue under this expansion. The Department has also expanded coverage for services schools may seek Medicaid reimbursement for to include wrap care coordination and case management services.

During the course of previous administrative rulemaking to implement the expansion, the Centers for Medicare & Medicaid Services (CMS) provided the Department with clarification that the MTS benefit is simply another setting where all coverable Medicaid services can be delivered. Additionally, CMS issued guidance on how states can expand access to behavioral health and substance use disorder treatment services in the school setting. While CMS is encouraging states to expand access to these services, it also expects states to ensure compliance with the Social Security Act and their Medicaid programs with regards to coverable services and qualified treatment providers delivering those services. In response, the Department is moving MTS to the Division of Medicaid Services, and making changes to the MTS benefit as a first step in several rulemakings to fully align MTS with the NH Medicaid program.

1. Schools continue to be fully eligible to seek Medicaid reimbursement for services delivered by qualified treatment providers as defined under the Social Security Act and state law.

This means that individuals must be medical or behavioral health practitioners licensed and practicing within the scope of their board licensure. The list below is not an exclusive list of qualified treatment providers under the Social Security Act and NH state law (*see also* #5 below):

- Physicians (medical or osteopathic)
- Nurses (APRN, LPN and RN (RN and LPN must be under the direction of a physician or APRN))
- Psychologists licensed by the NH Board of Psychology
- Occupational therapists and OT assistants
- Physical therapists and PT assistants
- Speech therapist and ST assistants
- Psychiatrists
- Audiologists
- Speech-Language Pathologists and Speech-Language Assistants
- Optometrists and ophthalmologists
- Licensed Clinical Social Workers
- Licensed alcohol and drug counselors (LADC), and a master of licensed alcohol and drug counselors (MLADC)

Statutorily Medicaid reimbursement is only available for qualified treatment practitioners. Some examples of licensed and credentialed individuals who are not Medicaid reimbursable are listed below. If you have questions about whether a specific licensed and credentialed individual is coverable please contact the Department (*See* #9 below).

- Educators, including Special Education Teachers, Teachers of the Deaf or Visually Impaired unless licensed by a NH board as a treatment provider such as the NH Board of Mental Health Practice or Speech-Language Pathology
- Paraeducators, except, at this time, rehabilitative assistants delivering personal care services
- School Psychologists and Associate School Psychologists, unless licensed by the NH Board of Psychology
- School Counseling Directors, School Counselors and Guidance Counselors, unless licensed by the NH Board of Mental Health Practice or by the NH Board of Psychology
- Speech language specialists unless licensed by the NH Board of Speech-Language Pathology

2. Federal law requires screening of all Medicaid treatment providers including those performing services in schools.

This means verifying the qualifications, licensure, and certifications of treatment providers upon hire and at the time of licensure or certification renewal. Schools or their designees must perform monthly screening of treatment providers for exclusions against the Office of Inspector General (OIG) exclusion and sanction database which is located at <https://exclusions.oig.hhs.gov>.

3. Care plans can include IEPs, 504 Plans, and other written health care plans.

This means other written health care plans can be used in support of Medicaid reimbursement such as Behavior Intervention Plans or Individualized Health Care Plans. The Department will be working with

the NH Department of Education on issuing content and format description for other types of care plans and documentation requirements for demonstrating medical necessity in the future.

4. Consultations must include the student.

CMS clarified that reimbursement can be sought for consultations only when the student was present for a portion of the consultation. This is because medical assistance means that services are delivered directly to a Medicaid beneficiary. Schools should only seek reimbursement for consultations that included the student for at least 51% of the consultation time and bill the correct Current Procedural Terminology (CPT) code for this service.

5. Who can order health care services?

The Department is not restricting licensed qualified treatment providers or clinicians from practicing within the scope of their board licensure, including those that can act independently to treat or order services. An order prescribing the Medicaid covered service is generally needed from a Physician, APRN or physician assistant. In its regular rulemaking proposal, the Department will clarify the definition for “order” that it includes those licensed treatment practitioners whose scope of license permits ordering services to be consistent with the Department’s Medicaid fee for service rules (the He-W 500s), federal and state law. The Department deleted the term “other licensed practitioner of the healing arts” because it is an undefined term under federal law and is not used in the NH Medicaid program.

6. The waiver submission process under the administrative rule has not changed.

This means schools needing waivers for Board Certified Behavior Analysts (BCBAs) may still submit them to the Bureau of Developmental Services for the 2019-2020 school year. In the regular rulemaking proposal, the Department will propose elimination of the current waiver process because BCBAs will be permitted to bill as treatment providers via the Early and Periodic Screening, Diagnostic, and Treatment benefit and thus, no waiver process will be needed.

7. Third party liability provisions apply but schools are not responsible for seeking reimbursement from third party payors.

CMS clarified that since Medicaid is the payor of last resort, third party liability provisions apply to Medicaid services delivered in school; however, since schools cannot get National Provider Identification numbers, they cannot bill private insurers prior to billing Medicaid for the covered service.

8. The Department’s program integrity unit requests that schools complete the attached survey with regard to billing agents and return it to the unit by September 23, 2019. Please see attachment.

9. Questions about this notification can be sent to:

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